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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,980	02/11/2004	Muraleedharan, G. Nair	MSU 4.1-690	4550
21036	7590	10/22/2007		
MCLEOD & MOYNE, P.C. 2190 COMMONS PARKWAY OKEMOS, MI 48864			EXAMINER PRATT, HELEN F	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 10/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/776,980		NAIR, MURALEEDHARAN G.	
	Examiner		Art Unit	
	Helen F. Pratt		1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2-11-04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (6231866) in view of Walker et al. (5,525,341) and Howell et al. (6,720,353).

Mann discloses a dried composition containing pomace (pulp) and juice from cranberries (a berry) (abstract). Claims 1 and 3 differ from the reference in that the acids and sugars have not been removed from the juice. However, Walker discloses a cranberry juice extract from which simple sugars and acid have been removed (abstract). Howell et al. disclose extracts from the Rosaceae (cherry family) (also claim 4) and cranberry containing juice from which sugars and acids were removed (abstract and col. 15, lines 15-30). The extract can be added to foods such as dried cranberries, fruit pieces or other foods (cranberries contain pulp) (col. 26, lines 24-28). No weight is given at this time to the limitation that the extract is dry as the claimed composition is to a dried product. Also, the composition can contain a pharmaceutically acceptable carrier and the extract (col. 22, lines 30-39). Therefore, it would have been obvious to use the acid and sugar extracted cranberry juice of Walker or Howell et al. in place of the unextracted juice of Mann in a composition containing pulp for the function of further

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nutritive enrichment particularly as Howell et al. disclose that her extract can be used with a carrier in admixture.

Claims 1 and 2 have been amended to require that the acids and sugars be removed by a particular method. However, no weight is given to the method of making in a composition claim. Therefore, it would have been obvious to make a composition as disclosed by the combined references.

Claim 2 further requires a particular ratio between extracted berry juice and pulp. However, Howell et al. disclose that the amounts of the extract can be from 1 mg to 500 mg per day in tablets and other pharmaceutical compositions and food compositions (col. 13, lines 25-44). Also they can be used in amounts to eliminate symptoms (col. 24, lines 25-30). No criticality is seen in the amount of pulp, which is seen to be only a carrier for the extracted juice and has no nutritional effects. Therefore, it would have been obvious to use the juice and pulp in particular amounts for various functions.

ARGUMENTS

Applicant's arguments filed 5-31-07 have been fully considered but they are not persuasive. Applicant argues that the individual references do not disclose the invention. However, the references are used in combination as above to show that it would have been obvious to make the claimed product. The references have not been used for the teachings that applicant has described.

It is known to remove acids and simple sugars from cranberry juice as disclosed by Walker. This reference is used in combination to show that it would have been

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obvious to remove acids and sugars in the composition of Mann if desired to do so.

Howell et al. disclose that sugars and acids were removed cranberry juice.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Keith Hendricks, can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for


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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hp 10-17-07


HELEN PRATT
PRIMARY EXAMINER